

November 26, 2007

Maine Milk Commission Special Meeting Minutes
Deering Building, Room 233
Augusta, Maine 04333

Notices for the November 26, 2007 meeting were distributed to Commission members, intervenors and other interested parties October 19, 2007 and sent to the Secretary of State's Office for posting on October 19, 2007.

Commission Present: Chair, Michael Wiers, Katherine O. Musgrave, Colon Durrell and Mark Hedrich, *ex-officio* for Agriculture Commissioner Bradstreet.

Commission Absent: John Joseph Jr.

Department Officials: None

Staff Present: Stan Millay, Executive Director, and Carol Gauthier, Office Associate and Audrey Shorty, Resource Administrator.

Legal Counsel: Amy Mills, Assistant Attorney General.

Intervenors Present: John Blake, H.P. Hood, Inc., Tom Brigham Oakhurst Dairy, John Economy, Garelick Farms of Maine and Julie-Marie Bickford Executive Director, Maine Dairy Industry Association (MDIA)

Others Present: Fred and Ruby Hardy, MDIA, Dale Cole MDIA, Chuck Farrand, Marie and Nicholas Michaud dairy farmers and Dr. George Criner and Lisa Bragg both from the University of Maine.

Meeting called to order at 9:10 a.m. by chair Michael Wiers.

Agenda Item 1: Minutes: Colon Durrell made a motion to accept the minutes of the October 19, 2007 meeting as presented. Katherine Musgrave seconded. Motion passed 3-0.

Agenda Item 2: Amy Mills, Assistant Attorney General: No Report.

Agenda Item 3: Minimum Prices: Stan Millay reported that there is a prevailing premium of \$1.10/cwt on Class I for December 2007 reported by Dairy Marketing Services (DMS) and Agri-Mark Cooperative. In addition to this premium, both Agri-Mark and DMS reported that an additional \$0.75/cwt for milk that comes from producers who do not treat their cows with the rBST hormone will be in affect. Federal Order One Class I price for December is \$23.29. He explained that the schedule was prepared using this information with a producer cost of production adjustment (COPA) of \$0.71/cwt. that was in effect with November prices. He stated that this price schedule was for discussion purposes and that the Commission was not bound to it, and should make their pricing determination after hearing testimony.

Julie-Marie Bickford gave copies of information and news clippings to the Commission that would be of interest to people involved in the dairy industry and which showed that the cost of producing milk in Maine is on the increase.

She pointed out that fuel, feed, fertilizer, bedding, and health insurance costs, environmental permitting costs and labor were all higher cost items for producers and that these costs were continuing to grow.

She stated that as of October 1, 2007, the US EPA is requiring producers to use low-sulfur diesel instead of the traditional #2 fuel. She said that the Maine Oil Dealers Association is estimating an increase of as much as 15 cents per gallon. She also stated that there is 52.8 cents per gallon road tax charged to producers as well.

Tom Brigham told the Commission that he believed that the road tax was refundable to off road vehicle usages.

Julie-Marie Bickford added that producers were facing fuel surcharges on top of their usual milk transportation costs.

Dale Cole reported that on his farm fuel-surcharges were added on a sliding scale basis determined from a set fuel cost. He said he is currently paying an additional 2-cents/cwt to get his milk to the processor.

Julie-Marie Bickford included information from the USDA Economics Research Service that suggested higher feed costs were contributing to a slowdown of production expansion.

Dale Cole reminded the Commission that Maine is at the end of the transportation line and because so much feed is trucked to Maine, producers get a double hit by paying higher feed costs plus the additional cost of trucking.

Julie-Marie Bickford went on to testify that fertilizer costs were also a problem for producers. Many producers “lock-in” a price for their spring fertilizer needs in the fall. These contracts are very uncertain, high in price or even not available this fall because there is so much uncertainty about how high these costs will be next year.

She said producers were finding wood based bedding very scarce and expensive. She told the Commission that many producers depend on sawdust and shavings and are finding that these products are either no longer available or are being diverted to producing energy. She stated that some producers are exploring changing to sand for bedding, but are finding that the cost of converting is prohibitive in many cases.

She also told the Commission that the 2007 Farm Bill was still not completed by Congress and the fate of the dairy support program was uncertain. Should the program be discontinued or funded at a lower rate, producers would again suffer. Ms. Bickford concluded with an appeal to the Commission to consider increasing the cost of production adjustment.

Chairman Wiers asked for a deviation from the agenda at this point so that Stan could introduce Mark Hedrich, who is the Department’s Nutrient Management Coordinator and was acting *ex-officio* as the representative of Agriculture Commissioner Bradstreet to the Milk Commission.

Marie Michaud addressed the Commission and introduced her son Nicholas Michaud who is operating the family organic dairy farm. She explained that they are worried about the future ability to meet the cost of production. She reported a large increase in the cost of grain for the farm. She also reported that fuel costs and other costs had increased. She went on to say that she is very worried about the loss of dairy farms in Maine and its impact on the future of dairy production in Maine. She said that payments for organic milk were not enough to absorb the rapid increases in cost.

Chairman Wiers stated that the Commission had not studied the cost of producing organic milk. He went on to explain that the Commission is limited on how much it can add to producer payments. He said the Commission could not be the final solution for adequate producer payment and added that the Commission needed to be mindful of processing and consumer costs. He said that the Commission has discussed its role in milk pricing many times and needed to balance the needs of producers, processors and consumers.

Colon Durrell stated that he had been associated with the dairy industry for many years. He agreed that the Commission is limited in what it can do, but pointed out that Maine was the envy of many states in the Northeast because of the state's commitment to the dairy industry. He said that production in Maine was increasing while it was declining in the other New England states.

Julie-Marie Bickford testified that retail milk prices in the smaller stores were lower than in the large supermarkets. She said this disparity at retail was frustrating for producers who feel they are blamed for higher costs at retail. She reminded the Commission that producers are price takers and do not set the price of milk unlike retailers who are free to push prices as far as they want. She suggested to the Commission that there needed to be some way to address excessive pricing at retail. She said producers and processors are squeezed in the middle and it is at the consumers' expense.

Dale Cole asked the Commission to look at the Maine November price survey in their packet of material and notice that retail supermarket prices increased as much as 10 cents per gallon in some of the large stores while the Commission minimum prices went down.

Katherine Musgrave asked if there was not something that could be done about excessive retail pricing. She proposed a motion to get retailers to come to the Commission or a task force group to discuss pricing. Colon Durrell seconded the idea.

John Blake suggested that the Commission wait to see the results of the current retail cost study before doing anything with retailers.

Chairman Wiers asked Dr. Criner about the retail study and Dr. Criner replied that he had results with him and would present it whenever the Commission was ready to hear it. He informed the Commission that New York had a retail milk pricing law and that Connecticut was considering something. He volunteered to work with the Commission if a study group was formed to look at retail milk prices.

Colon Durrell said that he was disappointed by the apparent lack of consumer awareness of the retail milk pricing.

Dale Cole agreed and said he would like to see more awareness of retail milk pricing by the general public. He said he believed the milk industry was hurt by consumers' apparent indifference to excessive retail pricing.

Chairman Wiers stated that he believed any group or task force created needed to have representation from all parties. He said he believed that the Commission needed to see the results of the retail cost study before proceeding with a study group.

Katherine Musgrave stated that she was frustrated by the same arguments at each Commission meeting and would like to see some resolution to the problem. She modified her earlier suggestion about a study group to a motion to have a group meeting after the retail cost results are received. Colon Durrell seconded the motion. Motion passed 3-0.

John Blake said he thought that retailers were heading to lower retail prices citing Rite Aid, Walgreens and other smaller convenience stores.

Chairman Wiers stated that the Commission had received testimony about higher costs for producers and their request for an increase in the cost of production adjustment. He asked the processor representatives present to give the Commission their sense of what an increase in the cost of production would do to them, specifically, how high can the cost of production go before there is a negative impact on processing; where is that point?

Julie-Marie Bickford told the Commission that the producers were asking for \$0.40/cwt more in the cost of production adjustment.

John Blake pointed out that the decrease in Class I price should reduce the retail gallon price by 12 cents in New England. Increases in the cost of production would offset some of that reduction for Maine.

Colon Durrell said that the cost of production adjustment had been higher in the past and supported a higher one for December. He made a motion to set the cost of production adjustment at \$1.11 and adopt schedule #21-07 that includes a \$23.29/cwt. Class I Price as announced by Federal Northeast Milk Market Administrator, plus \$1.85/cwt. as prevailing in neighboring states, plus \$0.23/cwt. for a handling fee and plus a \$0.20/cwt. processor assessment, for a total dealer Class I cost of \$26.68/cwt. Katherine Musgrave seconded.

Tom Brigham stated that he was amazed and apprehensive at how the Commission proposed to increase the cost of production adjustment without benefit of any numbers to support such an increase. He pointed to Tim Dalton's latest cost of production estimates for October and November that were well below the state's support levels. He said there was no justification and asked that the cost of production be left at \$0.71 where it was for November prices.

Julie-Marie Bickford responded saying that producers had supported a reduction in the cost of production when Class I was going up to its 2007 high in September even though producer costs were increasing. She reminded the Commission that Tim Dalton's estimates were short-run breakeven numbers and did not include current costs that will be added in when December costs are tabulated. She stated that short-run breakeven is not cost recovery. She said that the numbers she presented earlier were a good faith effort on her part to establish that producer costs are much higher and continue to climb. She said that there needed to be an increase in the cost of production to help keep producers in business.

Colon Durrell said he believes that producer costs have increased and supports an increase in the cost of production.

Motion passed 3-0.

Agenda Item 4: Maine Monthly Price Survey: The Commission reviewed the Maine price survey for November 2007 which included prices for Augusta and Bangor and the IAMCA milk price survey for September.

Agenda Item 5: Next Scheduled Meetings:

- December 21, 2007, Friday 1:30 p.m.
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME
- January 15, 2008, Tuesday 10:30 a.m. Agriculture Trade Show, Augusta Civic Center
- January 18, 2008, Friday 1:30 p.m.
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME
- February 22, 2008, Friday 1:30 p.m.
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME
- March 21, 2007, Friday 1:30 p.m.
Room 233, Department of Agriculture, Food & Rural Resources, Augusta ME

Agenda Item 6: Other:

1. **Milk Commission Budget:** The Commission reviewed the latest budget summary.
2. **Retail Margins:** George Criner provided the Commission with an overview of how new retail margins were developed and provided a summary of the results. He reported that the results were comparable to New York and Pennsylvania data. Staff was directed to begin the process for holding a public hearing on Chapter 27 Retail Margins. Public Hearing will be held January 18, 2008 at 1:30 pm prior to the regular Commission meeting. Comment period will close January 29, 2008. The Commission will consider testimony and adopt any changes to Chapter 27 at the February 2008 regular meeting. Any new retail margins adopted will not be effective until the March meeting for April minimum prices. The Commission would need to hold a special meeting at least a week prior to the February 22, 2008 regular meeting in order to meet the rulemaking time lines to have new margins effective for March prices.
3. **Cost of Production Study:** Dr. Criner reported that the proposed cost of production study was on hold. Tim Dalton is leaving the University of Maine and his position is not scheduled to be filled. A portion of Tim's position might be available, but at this time there are not enough resources to have full position for very long. The uncertainty of having someone to do the study is causing the hold. Until this impasse is resolved, the study will not go forward. Stan will explore other options using the \$33,136 that had been set aside for the University and will report back to the Commission in order to carry out a cost of production study in accordance with statutory requirements.
4. **Rite Aid:** Stan reported that Rite Aid has been offering a 10% discount to certain people on Tuesdays and because of their already low milk prices caused below minimum prices sales and violated the Commission law. Stan reported that he had been in contact with Rite Aid and believed the problem to be corrected. Staff was directed to send a letter to Rite Aid outlining their obligations under the law and asking for a plan of how they intended to have compliance in the future.
5. **Agriculture Trade Show:** The Commission will hold a special meeting at the Trade Show. Featured speakers include Erik Rasmussen Northeast Milk Market Administrator, Leon Graves from Dairy Marketing Services and Robert Wellington from Agri-Mark Cooperative. George Criner and Lisa Bragg will also attend and give a brief overview of the retail margin study and provide information about anything that might have changed with the producer cost study.

John Blake informed the Commission of the death of Roland Hemond, a long time dairy producer and active supporter of the dairy industry in Maine. One moment of silence was observed in his memory.

Agenda Item 7: Executive Session: The Commission did not go into Executive Session.

Adjourned: 11:10 a.m. (120 minutes)

Stanley Millay, Executive Director, Maine Milk Commission.